

STATE OF MINNESOTA
BEFORE THE
PUBLIC UTILITIES COMMISSION

Katie Sieben
Valerie Means
Matthew Schuerger
John A. Tuma
Joseph K. Sullivan

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Application of Big Bend Wind, LLC for a Certificate of Need, Site Permit, and Route Permit for an up to 308 MW Wind Farm and Associated 161 kV Transmission Line in Cottonwood, Martin, and Watonwan Counties

Docket Nos. IP-7013/CN-19-408,
IP-7013/WS-19-619 and
IP-7013/TL-19-621

REPLY COMMENTS

Big Bend Wind, LLC (“Big Bend”) submits these Reply Comments in response to the Minnesota Public Utilities Commission’s (“Commission”) November 23, 2020 Notice of Comment Period.

I. Background.

The proposed Big Bend Wind Project (“Project”) is an up-to-308 megawatt (“MW”) large wind energy conversion system in Cottonwood and Watonwan Counties, Minnesota. The Project is proposed as part of a hybrid wind/solar renewable energy project with the Red Rock Solar Farm (*see* MPUC Docket Nos. 19-486 and 19-620). Together, the Red Rock Solar Farm and the Project will generate up to 335 MW of renewable energy (275 MW of wind and 60 MW of solar), or up to 308 MW of only wind. The Project will interconnect via a proposed approximately 18-mile-long 161 kilovolt transmission line (“Transmission Line”). Big Bend submitted a Site Permit Application, Certificate of Need (“CN”) Application, and Route Permit Application (together, the “Applications”) for the Project and the Transmission Line on November 9, 2020.

On November 23, 2020, the Commission issued its Notice of Comment Period requesting comments on several topics related to the Project's Site Permit and CN Applications. Before the close of the initial comment period on December 15, 2020, comments regarding the Project were submitted by the Department of Commerce, Division of Energy Resources ("DOC-DER"), Department of Commerce, Energy Environmental Review and Analysis ("DOC-EERA"), LIUNA Minnesota & North Dakota ("LIUNA"), and International Union of Operating Engineers, Local 49 ("Local 49"). LIUNA and Local 49 both expressed support for the Project. Several members of the public also submitted comments concerning the Project. In addition, Commission staff e-filed comments from the Southwest Regional Development Commission, Minnesota Historical Society ("MNHS"), and Lower Sioux Indian Community Tribal Historic Preservation Office ("Lower Sioux").

II. Completeness.

The Commission requested comments concerning whether the Applications contain the information required under the applicable rules. With respect to the CN Application, DOC-DER recommended the Commission determine that application be accepted as complete. Similarly, DOC-EERA recommended the Commission determine the Site Permit Application and Route Permit Application to be complete. Big Bend appreciates DOC-DER's and DOC-EERA's review of the Applications and, likewise, respectfully requests that the Commission accept the Applications as complete.

III. Application Review Process.

The Commission requested comments concerning the process to be used for evaluating the Applications. As an initial matter, both DOC-DER and DOC-EERA recommended that the Applications be processed together, and did not oppose a joint review process with the Red Rock

Solar Farm. Big Bend agrees and, accordingly, requests that the Commission process the Applications jointly, and together with the Red Rock Solar Farm.

A. CN Application.

DOC-DER recommended that the Commission evaluate the CN Application using the Commission's normal process of informal comments and reply comments. Big Bend agrees and requests that the CN Application be evaluated under the Commission's normal process.

B. Route Permit Application.

DOC-EERA noted that it is not aware of any contested issues with respect to the Route Permit Application. Likewise, no other commenter raised issues concerning the Route Permit Application beyond issues the Commission considers as a matter of course. As such, Big Bend respectfully submits that referral to a contested case is not warranted for the Route Permit Application.

C. Site Permit Application.

In its comments, DOC-EERA discusses two potential "contested issues of fact" with respect to the Site Permit Application: use of eminent domain; and potential impacts to the Jeffers Petroglyphs site.

With respect to eminent domain, DOC-EERA refers to inconsistent statements from independent power producers in other dockets and states that "[t]his uncertainty surrounding Independent Power Producers and the use of eminent domain creates two areas of concern relative to environmental review of HVTL projects." DOC-EERA then requests Commission guidance concerning this issue and a scoping decision recommendation. As DOC-EERA appears to acknowledge, this issue is not appropriate for a contested case proceeding. It is a pure legal issue, and the apparent fact that other developers have taken differing positions does not create a contested issue of fact necessitating a contested case in this docket. Big Bend respectfully submits

that referral to a contested case on this basis is not appropriate and would not be helpful to the Commission.

With respect to the Jeffers Petroglyphs site, DOC-EERA notes concerns about potential viewshed impacts at the Jeffers Petroglyphs site and then describes the current uses of the site. As an initial matter, it is unclear what information DOC-EERA's comments are based upon, and DOC-EERA does not provide citations or documents accompanying its comments into this record. Instead, DOC-EERA notes that "There are numerous ancestral rock carvings present at the Jeffers Petroglyphs site, which are used and correspond with the horizon and constellations in the night sky." As noted in the Site Permit Application, Big Bend is proposing to install Aircraft Detection Lighting System ("ADLS") technology at the site, specifically to avoid and minimize impacts to the night sky, when constellations are visible. (*See* Site Permit Application, Appendix G).

Further, Big Bend has been engaged in coordination with the MNHS, Minnesota State Historic Preservation Office, and certain Tribes (including Lower Sioux) for some time in an effort to understand and address concerns related to the Jeffers Petroglyphs site, and to avoid, minimize, and mitigate any potential impacts. The MNHS and Lower Sioux both submitted comments concerning the Project and its potential visual impacts on the Jeffers Petroglyphs site and Red Rock Ridge. Big Bend welcomes MNHS's and Lower Sioux's continued coordination and involvement in this Commission process but does not believe a contested case is required to facilitate that involvement.¹

Nonetheless, Big Bend does not oppose referring the limited issue of the Project's potential impacts on the Jeffers Petroglyphs site and Red Rock Ridge to a contested case proceeding.

¹ Both MNHS and Lower Sioux raise issues unrelated to completeness or the process for application review. Big Bend will address and respond to those issues at the appropriate stage in this process.

Referral of this discrete issue would allow more clear and focused record development, including with respect to any process that occurs under Minn. Stat. § 138.665. Further, Big Bend believes that the conceptual schedule included in Table 3 to DOC-EERA's comments could be modified slightly to allow for a contested case hearing on the issue of potential effects on Red Rock Ridge and the Jeffers Petroglyphs site, while still allowing for concurrent and joint review of the other Project Applications and the Red Rock Solar Farm, and not further delaying or lengthening the timeline for review of the Project. Big Bend anticipates that specific details regarding any such timing would be worked through with the administrative law judge.

In addition, the Commission received a comment from Mr. Brad Hutchinson, who requested contested proceedings related to his concerns about wildlife and property values. Big Bend appreciates these concerns but disagrees that they are appropriate for referral to a contested case because they are issues with which the Commission is familiar and has considered numerous times in prior proceedings.

IV. Other Matters Open for Comment.

The Commission also requested comments concerning an advisory task force and the environmental review process. DOC-EERA did not recommend the appointment of an advisory task force and supported the preparation of an environmental assessment in lieu of an environmental report. Big Bend requests that the Commission issue an order consistent with these recommendations.

In addition, DOC-EERA recommended that Big Bend submit a lesser-redacted version of its Phase 1a Literature Review and Natural Heritage Information System Request (Appendix F to the Site Permit Application and Appendix F to the Route Permit Application). Big Bend will file a revised public version of these appendices by January 14, 2021, as recommended by DOC-EERA.

Dated: December 23, 2020

Respectfully submitted,

/s/ Christina K. Brusven

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